

Restivo-Alessi Declaration

Exhibit 7

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

HACHETTE BOOK GROUP, INC.,
HARPERCOLLINS PUBLISHERS LLC,
JOHN WILEY & SONS, INC., and
PENGUIN RANDOM HOUSE LLC

Plaintiffs,

v.

INTERNET ARCHIVE and DOES 1 through
5, inclusive

Defendants.

Case No. 1:20-CV-04160-JGK

EXPERT REPORT OF SUSAN H. HILDRETH

ATTORNEYS' EYES ONLY

II. SUMMARY OF OPINIONS

10. I have been asked to provide expert opinions regarding library processes, service trends, patron behavior, and library finances, particularly acquisitions and the impacts of ebook licensing models on library services.

11. In brief, my opinions are that:

- In the twenty-first century, libraries strive for improved patron access to knowledge and to adapt to increasing patron demand for digital access. To do so, libraries must leverage their investments in their print collections. See Section III.
- Patrons by and large prefer to browse or sample a title, digital or print, before making the decision to borrow it. See Section III.
- Libraries have shared their physical collections through interlibrary loans and regional resource-sharing for many years. Interlibrary lending is a way for libraries to conserve resources and focus acquisition-based spending on works their patrons are most likely to frequently request. See Section IV.
- The growing practice of CDL by libraries is but one method libraries use to leverage their existing physical collection to better serve the reading population. The Digital Lending Library is one example. See Section IV.
- Library budgets are both limited and finite. Libraries strive to maximize their acquisition budgets to meet patron demand, but acquisition budgets are often one of the few discretionary line items in a library budget and so may be constrained based on other required library expenses. Library budgets for acquisition of works are never large enough to meet patron demand. See Section V.
- As to physical book acquisitions, libraries initially buy multiple copies of popular titles, and then subsequently reduce the number of copies in their collection of a title. Sometimes reduction happens when a physical copy wears out or is damaged, and other times a reduction happens when libraries sell or giveaway additional copies of a title after demand for that title has decreased. Libraries seldom buy replacement copies of a title. Demand for popular titles diminishes rapidly, and one-to-one replacement would not be a good use of a library's limited acquisition budget. Moreover, libraries can and do make small repairs (example: taping a torn page) to damaged physical copies. Only a small percentage of a library's acquisition budget is spent purchasing new replacement copies of a title. See Section VI.
- Ebooks have presented particular challenges for libraries. Patron demand for ebooks has been increasing. But, when libraries pay for the ability to loan ebooks to patrons, libraries pay only for a temporary license. The purchase of ebook

licenses therefore does not add to a libraries' permanent collection. Moreover, ebook collection management requires heavy use of libraries' staff resources. In many cases it takes more staff resources to manage library ebook licensing systems than it does to manage physical collections. See Section VII.

- CDL does not result in less library spending on books. Libraries spend all of their allocation budgets each period. If a library decided not to license a title because digitized print copies are available for borrowing under CDL, a library will use the money it would have spent licensing that title as an ebook on licensing another ebook title—or on purchasing print books. See Section VIII.

III. BACKGROUND ON LIBRARY SERVICES

A. The Role of Libraries in the Twenty-First Century

12. Provision of access to information is the primary goal of the twenty-first century library, yet libraries have expanded far beyond that primary role. Libraries serve as meeting places for community members, workforce development centers for the unemployed or under-employed, family learning centers for literacy support for all ages, telehealth venues for patients who do not have access to personal devices or wifi, and go-to partners for a myriad of services that reflect the needs and aspirations of their communities.

B. Print Collection Investment

13. The primary role of libraries for many years was the development and curation of print collections. These collections were initially developed to provide educational materials to improve the lives of patrons. As communities changed and additional formats of resources evolved, libraries expanded their collections to include recreational reading materials, serials (magazines), children's materials, and varying formats, i.e. paperbacks, audio-visual materials, etc.¹ No matter what the format, libraries have worked to develop collections that present

¹ Michael Kevane & William A. Sundstrom, The Development of Public Libraries in the United States, 1870–1930: A Quantitative Assessment. *Information & Culture: A Journal of History*, 117–144 (2014).